OFFICE OF THE CITY MANAGER NO. LTC # 300-2013

LETTER TO COMMISSION

e City Commission

9:42

TO:

Mayor Matti Herrera Bower and Mambers of the City Commission

FROM:

Jimmy L. Morales, City Manager

DATE:

August 28, 2013

SUBJECT South Pointe Park Dog Off-Leash Pilot Program Status Update

The purpose of this Letter to Commission is to provide you a status update of the South Pointe Park Dog Off-Leash Pilot Program.

There have been several City Commission and City Commission Committee actions taken to effectuate the South Pointe Park Dog Off-leash Pilot Program since it began on June 10, 2010. One of the recent discussions transpired at the March 13, 2013, City Commission meeting. At this meeting the ordinance extending the South Pointe Park Dog Off-leash Pilot Program through and including June 30, 2013, was presented for second reading and public hearing. At the conclusion of the discussion a motion was made to bring back the ordinance on first reading with the following amendments:

- 1) Change the location of the off-leash dog area back to the lighthouse area (its original location);
- 2) Amend the currently authorized afternoon off-leash hours in the designated area from between 4:00 P.M. and 7:00 P.M. to between 6:00 P.M. and 9:00 P.M., Monday through Friday;
- 3) The existing morning hours (sunrise to 10:00 A.M.) remain unchanged;
- 4) Extend the pilot program through and including June 30, 2013;
- 5) These actions should be effective immediately.

A second motion was approved unanimously directing the Administration to file an application to the Design Review Board to present a plan that utilized native plant materials/grasses etc., to serve as a the perimeter of the designated dog off-leash area in the triangular area south and west of the Washington Avenue entry plaza. Additionally, the City Commission directed the Administration to meet with the community to discuss and gain input and comments concerning the relocation plan and the proposed perimeter landscape plan.

As directed by the City Commission the Administration took the following actions:

- Relocated the off-leash area from west lawn location to its original location in the triangular area south and west of the Washington Avenue entry plaza where the lighthouse is located. Additionally, signs were installed in the new location posting the revised evening weekday hours of 6:00 P.M. to 9:00 P.M., Monday through Fridays.
- The Parks Division developed a concept plan that incorporates native and Florida friendly plant materials/grasses etc., in the lighthouse area to function as a natural environmental barrier and control to delineate the dog off-leash area around the lighthouse. Please see the attached copy of the concept plan.
- The Parks and Recreation Administration presented the concept plan to the South of Fifth Neighborhood Association at the April 4, 2013, SOFNA general meeting. At the conclusion of the presentation the SOFNA board discussed the concept plan and

approved the following motion; "SOFNA supports an off leash dog area in South Pointe Park, at a location selected in consultation with professionals as well as the input of the community." This motion was further clarified in an email from the SOFNA President, Dr. Steven Mandy to the Administration on April 17, 2013, which stated "SOFNA is opposed to a fenced in dog off leash area in the prime spot of the lighthouse. Our resolution did not state that as clearly as it might have, but there was no approval of that location, and to the contrary, as I am sure you clearly heard, wide spread disapproval of that as the location".

- The Administration hosted a community meeting on April 15, 2013, in South Pointe Park to discuss the relocated South Pointe Park Dog Off-leash Area. Issues discussed included the revised off-leash hours, the presentation of the draft landscape concept plan, and potential alternative locations in South Pointe Park for the off-leash area. Following questions and comments it was the majority opinion that the current location of the off-leash dog pilot program, in the triangular area where the Lighthouse sculpture is located, was the site best suited for the South Pointe Park Dog Off-leash Pilot Program and it should remain there.
- The Administration also submitted an application for the Design Review Board's review of the landscaping around the perimeter of the relocated dog off-leash area. The application was scheduled to be heard at the June, 2013, DRB meeting but the Administration requested a continuance due to only four (4) of the DRB members being present.

The City's application for the Design Review Board's review of the landscape plan around perimeter of the relocated dog off-leash area was presented by the Parks and Recreation Department's Administration at the July 2, 2013, DRB meeting where it was approved. The Final Order authorizing the City's application (File No. 22977) was issued on July 11, 2013. Attached is a copy of the Final Order.

Subsequent to the Design Review Board's July 2, 2013, approval Ms. Patricia Fuller, a resident and member of the Arts in Public Places Board, submitted a request to formally appeal the decision of the Design Review Board's approval of the landscape plan prepared by the Parks Department for the off leash dog area at South Pointe Park. Ms. Fuller has requested the hearing date be set for the December 11, 2013, City Commission meeting, as she will not be available for the October meeting and the November meeting is scheduled to only deal with election related items.

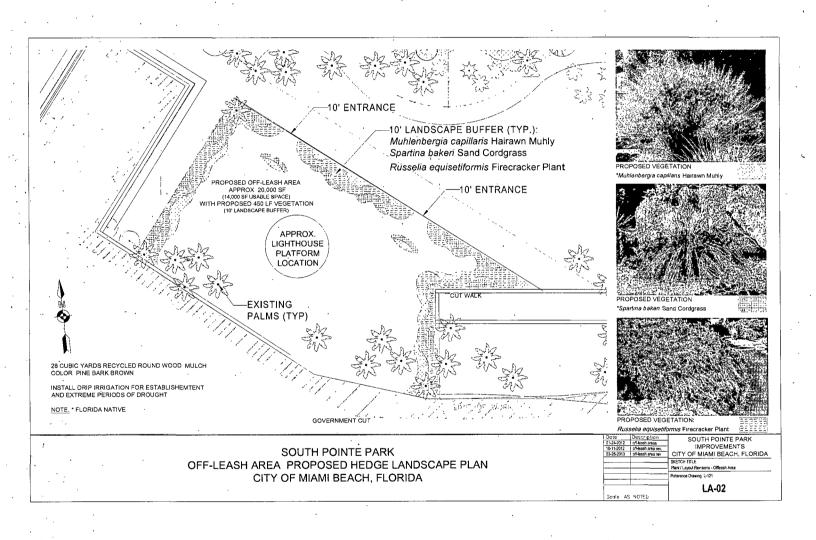
Please note that the South Pointe Park Dog Off-leash Pilot Program as approved on second reading by the City Commission on May 8, 2013, is extended through and including December 31, 2013. As there may be no solution to the appeal by December 31, 2013, the Administration and the City Attorney's office anticipates having another extension prepared for consideration on first reading at the October Commission meeting and second reading/public hearing at the December 11, 2013, Commission meeting.

Additionally, please be advised that at this time it is the Administration's recommendation that the planting of the natural environmental barrier and control to delineate the dog off-leash area around the lighthouse be coordinated and completed at the time the area is anticipated to be remediated in the spring of 2014 as a component of the greater South Pointe Park Rehabilitation Program Capital Project.

Please advise if you have questions.

C: Mark Taxis, Assistant City Manager
Kevin Smith, Parks & Recreation Director
John Rebar, Incoming Director of Parks & Recreation

JLM/ JWH/KS Attachments



## DESIGN REVIEW BOARD City of Miami Beach, Florida

**MEETING DATE:** 

July 02, 2013

FILE NO:

22977

PROPERTY:

1 Washington Avenue South Pointe Park

IN RE:

The Application for Design Review Approval for an off-leash dog area surrounded by a landscape buffer in the area of the "Obstinate Lighthouse" sculpture located at the southwestern portion of South Pointe Park.

## ORDER

The applicant, the City of Miami Beach, filed an application with the City of Miami Beach Planning Department for Design Review Approval.

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 5, 6, 7, 8, 10, and 12 in Section 118-251 of the Miami Beach Code.
- B. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:
  - A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
  - a. The height for any landscape material within the landscape buffer shall be limited to a maximum height of 42", in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- b. If a landscaped off-leash dog area is no longer authorized by the City in the future, in South Pointe Park, any landscape barrier approved as part of a landscaped off-leash dog area shall be immediately removed and the original landscape in these areas restored.
- c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- d. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
- 2. The Final Order shall be recorded in the Public Records of Miami-Dade County, <u>prior</u> to the issuance of a Building Permit.
- 3. At the time of completion of the project, only Final Certificate of Completion (CC) may be applied for; the staging and scheduling of the construction on site shall take this into account. All work on site must be completed in accordance with the plans approved herein, as well as any modifications approved or required by the Building, Fire, Planning, CIP and Public Works Departments, inclusive of all conditions imposed herein, and by other Development Review Boards, and any modifications required pursuant to field inspections, prior to the issuance of a CC. This shall not prohibit the issuance of a Partial or Temporary CC.
- 4. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- 5. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- 6. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations which were adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-6, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "South Pointe Park Dog Off-leash Proposed Hedge Landscape Plan" dated 3/14/2013 and 3/28/2013, modified in accordance with the conditions set forth in this Order and staff review and approval.

If the required permit for the project is not issued within eighteen (18) months of the meeting

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DRB File No. 22977

date at which the original Design Review Approval was granted, the Design Review Approval will expire and become null and void, unless the applicant makes application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the Design Review Approval will expire and become null and void.

In accordance with Section 118-264 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Dated this **DESIGN REVIEW BOARD** THE CITY OF MIAMIBEACH, FLORIDA THOMAS R. MOONEY AICP DESIGN AND PRESERVATION MANAGER FOR THE CHAIR STATE OF FLORIDA )SS COUNTY OF MIAMI-DADE The foregoing instrument was acknowledged before me this 20 / 3 by Thomas R. Mooney, Design and Preservation Manager. Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me... TERESA MARIA MY COMMISSION # DD 928148 **NOTARY PUBLIC** EXPLAS: December 2, 2013 Miami-Dade County, Florida rded Thru Budget Notary Services My commission expires: Approved As To Form: 7-11-13 Legal Department: Filed with the Clerk of the Design Review Board on

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